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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES, *et al.*

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States, *et al.*,

Defendants.

Case No. 3:25-cv-03698-SI

**DEFENDANTS' REPLY TO PLAINTIFFS'
RESPONSE TO DEFENDANTS'
SUBMISSIONS RE: DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT**

Defendants submit this short reply in response to Plaintiffs' "response to Defendants' submissions." ECF No. 171 (some capitalizations omitted). As the Court is aware, the Court initially "direct[ed] defendant HUD to provide to the Court for in camera review a copy of any Phase 1 or Phase 2 Agency RIF and Reorganization Plans (ARRPs) it has submitted to the Office

1 of Management and Budget and/or the Office of Personnel Management and any versions of
 2 ARRP's that the OMB and/or OPM have approved." ECF No. 162. After Defendants provided the
 3 materials the Court requested (which did not include a Phase 2 ARRP), the Court issued an order
 4 later that day stating that "Defendant HUD is directed to provide the Phase 2 ARRP(s) as
 5 previously ordered, or else provide a declaration explaining why such ARRP is not available."
 6 ECF No. 169. Defendants timely provided the declaration the Court directed, explaining that
 7 "HUD has not finalized its Phase 2 ARRP, and therefore, no Phase 2 ARRP has been submitted
 8 either to OMB or OPM." ECF No. 170-1 ¶ 4.

9 This Court did not invite Plaintiffs to weigh in after Defendants submitted the materials
 10 that it directed for in camera review. But Plaintiffs did so anyway, and "request that the Court now
 11 direct HUD to produce for in camera review any and all versions of the Phase 2 ARRP, drafts or
 12 otherwise." ECF No. 171 at 1. Plaintiffs misleadingly characterize the Court's prior orders—
 13 describing them as "order[ing] HUD to present for in camera review the March and April versions
 14 of the" ARRP's, state that "[t]he Court ordered HUD to provide the Phase 2 ARRP" but that "HUD
 15 submitted a declaration rather than provide any Phase 2 ARRP to the Court." *Id.* at 1-2. But as
 16 recounted above, Plaintiffs functionally seek to rewrite the Court's order. Defendants plainly
 17 complied with the Court's orders requiring the production of documents "submitted to" or
 18 "approved by" OPM or OMB. If Plaintiffs desire additional relief, they should file a motion
 19 consistent with the local rules. Unless and until they do so (and that motion is fully briefed), the
 20 Court should ignore Plaintiffs' response.

21 In any event, Plaintiffs' contention—that draft ARRP's that have not even been submitted
 22 to OMB or OPM are somehow relevant to whether HUD's termination of a small number of
 23 probationary employees runs afoul of the Court's preliminary injunction—is absurd. To be sure,
 24 Defendants have previously argued that ARRP's are always subject to change, and that an agency
 25 is not obligated to follow the techniques, strategies, and proposals in an ARRP. But the documents
 26 Plaintiffs request are purely intra-agency pre-decisional and deliberative documents that would not
 27 have even received final approval from the Department. They cannot be produced even *in camera*
 28 and with an attorneys-eyes-only limitation without violating the deliberative process privilege that

1 plainly applies. Putting that aside, it is preposterous to contend that the injunction prohibits an
 2 agency from taking an otherwise lawful action on any subject that happened to be addressed in a
 3 draft document, that was never submitted outside the agency, and has not even cleared the drafting
 4 and review processes for them to represent *the agency's* views on a subject (even the agency's
 5 non-final views). But in any event, Defendants will further address the merits of Plaintiffs'
 6 argument if and when Plaintiffs file a motion consistent with the Federal Rules of Civil Procedure
 7 and the Local Rules.

8
 9 Dated: June 23, 2025

Respectfully submitted,

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